

SUBSTITUTE

ORDINANCE No. 189362

Authorize the Commissioners in Charge of Bureau of Environmental Services, or designee, and Portland Parks & Recreation, or designee, to execute agreements for the planning, design, construction, and maintenance of watershed restoration projects in partnership with the U.S. Army Corps of Engineers and other partners.

The City of Portland ordains:

Section 1. The Council finds:

1. In 1998, the first steelhead population in Portland was federally listed as a threatened species under the Endangered Species Act (ESA). Today, thirteen populations of salmon and steelhead in Portland have been listed, and two additional fish species, Pacific Eulachon and Bull Trout, are also protected. In Resolutions 35715 (July 29, 1998) and 35894 (July 14, 2000) Council directed all city bureaus to contribute to the recovery of listed species in Portland.
2. On March 6, 2006, City Council passed Resolution #36384, adopting the Portland Watershed Management Plan which includes actions for protecting Portland's rivers and restoring the upland activities that shape the watersheds. Studies show that shallow water habitat and off-channel habitat in the Lower Willamette River is limited for young salmon and steelhead, reducing their ability to survive the migration to the ocean.
3. The Bureau of Environmental Services (BES) first successfully partnered with the U.S. Army Corps of Engineers (USACE) in 2001 to restore habitat and improve water quality in the Columbia Slough. This series of projects replaced five culverts, and restored wetlands and forests adjacent to the Slough. The City's cost-share was largely covered by in-kind staff costs and property acquisition.
4. From 2010-2013, BES, Portland Parks & Recreation (PP&R), and the USACE worked to return salmon and steelhead to Crystal Springs Creek by replacing numerous culverts and restoring stream habitat, most visibly in Westmoreland Park. In 2013, Parks redesigned the playground at Westmoreland Park into the city's first NaturePlay playground, connecting children and families directly to the stream restoration and nature in their backyards. In 2014, coho were spawning in Westmoreland Park during the opening ceremony of the city's renewed Salmon Celebration. This combined effort won the American Planning Association's Sustainability Award in 2015, and in 2017 City Council declared Crystal Springs Creek as the city's first Salmon Sanctuary.
5. In order to reach Crystal Springs, Johnson Creek, Tryon Creek, and other tributaries in Portland and in the Upper Willamette River, salmon and steelhead must migrate through the Willamette River at least twice in their lifetimes, making water quality and habitat restoration in the Willamette some of the most important investments in salmon recovery in the city and Willamette River Valley. These efforts are also connected to the availability of healthy and safe fish which are significant cultural resources for countless Tribal Nations that reside in the Pacific Northwest.

6. In 2018, BES, PP&R, and the USACE reconnected the Oaks Bottom Wildlife Refuge to the Willamette River making the largest off channel wetland area in the Lower Willamette River accessible to migrating salmon for the first time in decades, providing an important rest stop and feeding ground for both juvenile and adult salmon, as well as a safe haven during floods and droughts. Through Ordinance #184346, Portland City Council authorized the Directors of BES and PP&R to execute agreements with the USACE, which allowed BES and Parks to streamline agreements, shorten timelines and be nimble to federal funding availability that would otherwise be redirected to USACE projects in other states.
7. In 2015, the USACE approved and finalized the Lower Willamette River Environmental Dredging and Ecosystem Restoration Project study. The federally approved projects identified in this study will enhance riparian, wetland, off-channel and floodplain habitat at five sites along the Lower Willamette River and immediate tributaries: Tyron Creek - Highway 43 Culvert Replacement, Oaks Crossing adjacent to Sellwood Riverfront Park, Kenton Cove and the BES Plant in the lower Columbia Slough, and Kelly Point Park. These projects will benefit native salmon and trout, lamprey, amphibians, migratory birds and mammals, provide outstanding educational and recreational opportunities along the Willamette River and in the Columbia Slough, and benefit the cultural values of Native Americans. BES and PP&R agree to prioritize the Highway 43 project and work with the USACE to mutually design salmon and recreational improvements at Kelly Point Park and Oaks Crossing adjacent to Sellwood Riverfront Park.
8. On December 16, 2016, President Obama signed the Water Infrastructure for Improvements to the Nation (WIIN) Act in which Section 1401 (7) specifically authorizes the USACE to design and construct the Lower Willamette River Dredging and Ecosystem Restoration Projects.
9. The USACE will administer projects included in the WIIN as federal funds are appropriated in partnership with a local sponsor. The City of Portland is the approved non-federal sponsor for the Lower Willamette River Dredging and Ecosystem Restoration Projects.
10. This ordinance will authorize the BES and PP&R to negotiate, execute and amend agreements with USACE and other partners, including other municipalities, state agencies, non profits and other entities, to jointly design and/or construct restoration projects using a combination of local and federal funds.
11. Similar to previous projects, the City of Portland, as the non-federal sponsor, is responsible for approximately 35% of the total project cost, currently estimated at \$29.7 million, which may include cash, the value of lands, easements, rights of ways and other real property interests, and work-in-kind. The City of Portland's estimated cost is \$10,135,000 which will be satisfied largely by over \$9,300,000 in credit due to the value of lands, easements and rights of way. The City of Portland's total estimated cash and work in kind contribution is \$2.5 million. The Lower Willamette River Dredging and Ecosystem Restoration Projects have been approved in the Bureau of Environmental Services, 2020-2025 Capital Improvement Program. Funds are anticipated to be available in the Sewer System Operating Fund, FY 20-30 Budgets, Bureau of Environmental Services, and funding for the highest priority project, Tryon Creek Highway 43 culvert replacement, is currently funded in E10502, with future

projects to be included in future budget requests. Funding sources will also be pursued through other grant and partner sources. The Commissioners of the BES, or designee, and PP&R, or designee, will only execute or amend agreements upon mutual agreement and when adequate funds have been identified in BES and PP&R budgets.

12. Currently funds for implementation of Lower Willamette River Ecosystem Restoration Study includes five restoration projects (Tyron Creek Highway 43 Culvert Replacement, Oaks Crossing at Sellwood Park, Kenton Cove, BES Plant, and Kelly Point Park), but may include the additional projects evaluated in Lower Willamette River Environmental Dredging and Ecosystem Restoration Project study.
13. Operation and maintenance funds are integral to the project to ensure the established ecological functions are maintained. PP&R will request funds during the annual budget process for completed projects.

NOW, THEREFORE, the Council directs:

- a. The Commissioners in Charge of Bureau of Environmental Services, and his/her designee, and Portland Parks and Recreation, and his/her designee, are authorized to negotiated, execute, and amend agreements in substantially similar form to the attached examples: Model Agreement for Design (Exhibit A), Project Partnership Agreement (Exhibit B), Operations and Maintenance Agreements (Exhibit C), and all ancillary documents including feasibility studies, cost share agreements, real property documents, permits, operations and maintenance agreements, and other necessary agreements including Memoranda of Agreement and Intergovernmental Agreements with partners, once approved as to form by the City Attorney. The Commissioners in Charge of Bureau of Environmental Services, or designee, and Portland Parks and Recreation, or designee, are authorized to release all funds necessary to execute such documents and agreements upon identification of adequate funds in appropriate budgets for these projects.
- b. The Mayor and Auditor are hereby authorized and directed to accept assets and improvements resulting from said projects for the City of Portland, Bureau of Environmental Services and/or Portland Parks & Recreation.

Passed by the Council,
Commissioner Nick Fish

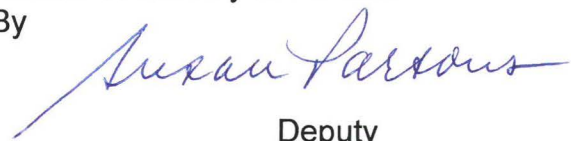
JAN 30 2019

[Kaitlin Lovell, BES – James Allison, PP&R]
[11/7/2018]

Cost object - ord

Mary Hull Caballero
Auditor of the City of Portland

By



Deputy

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 Agenda No.
 Title

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<p>INTRODUCED BY Commissioner/Auditor: <u>FISH</u></p>	<p>CLERK USE: DATE FILED <u>JAN 23 2019</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish <i>SMS for Nick Fish</i></p> <p>Position 3/Affairs - <i>Hardesty</i> Saltzman</p> <p>Position 4/Safety - Eudaly</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Environmental Services Bureau Head: <i>Michael Jordan</i></p> <p>Prepared by: Kaitlin Lovell, BES Date Prepared: November 7, 2018</p> <p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easements, franchise, comp plan, charter <i>FAB</i></p> <p>Council Meeting Date December 12, 2018</p>	<p>ACTION TAKEN:</p> <p>JAN 23 2019 <i>SUBSTITUTE</i> PASSED TO SECOND READING JAN 30 2019 9:30 A.M.</p>

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 10 Minutes (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
<i>Hardesty</i> 3. Saltzman	<i>Hardesty</i> 3. Saltzman <input checked="" type="checkbox"/>	
4. Eudaly	4. Eudaly <input checked="" type="checkbox"/>	
Wheeler	Wheeler <input checked="" type="checkbox"/>	